

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT CURTISS AND JENNIFER
CURTISS,

Plaintiffs,

v.

SN SERVICING CORPORATION, et al.,

Defendants,

No. 2:23-cv-2455 DB

ORDER

This civil action has been directly assigned to the undersigned pursuant to the Local Rules, Appendix A(m). On November 7, 2023, defendants filed a motion to dismiss. (ECF No. 4.) Plaintiffs failed to file a timely opposition or statement of non-opposition. Accordingly, on December 11, 2023, the undersigned issued plaintiffs an order to show cause and continued the hearing of defendants' motion to February 2, 2024. (ECF No. 11.)

On December 22, 2023, plaintiffs' counsel filed a motion to withdraw and a response to the order to show cause. (ECF Nos. 12 & 13.) Granting the motion to withdraw would leave plaintiffs proceeding in propria persona. On January 9, 2024, defendants filed an opposition. (ECF No. 14.)

The motion to withdraw filed by plaintiffs' counsel is defective in several respects. First, the motion was not noticed for hearing. Second, it does not provide an affidavit stating the

1 current or last known address of the plaintiffs and the efforts made to notify them of the motion.
2 Most importantly, it erroneously states that counsel “previously represented” the plaintiffs “in this
3 matter.” (ECF No. 13 at 2.) Counsel for plaintiffs still represents plaintiffs in this matter.

4 In this regard, as this court has repeatedly explained, Local Rule 182(d) provides:

5 Unless otherwise provided herein, an attorney who has appeared may
6 not withdraw leaving the client in propria persona without leave of
7 court upon noticed motion and notice to the client and all other
8 parties who have appeared. The attorney shall provide an affidavit
9 stating the current or last known address or addresses of the client
10 and the efforts made to notify the client of the motion to withdraw.
11 Withdrawal as attorney is governed by the Rules of Professional
Conduct of the State Bar of California, and the attorney shall
conform to the requirements of those Rules. The authority and duty
of the attorney of record shall continue until relieved by order of the
Court issued hereunder. Leave to withdraw may be granted subject
to such appropriate conditions as the Court deems fit.

12 See also Trinchitella v. American Realty Partners, LLC, 2020 WL 13571253 (E.D. Cal. Feb. 11,
13 2020); Lanier v. City of Fresno, No. 1:10-cv-1120 LJO SKO, 2011 WL 5118526 (E.D. Cal. Oct.
14 27, 2011); CE Resource, Inc. v. Magellan Group, LLC, No. 2:08-cv-2999 MCE KJM, 2009 WL
15 3367489 (E.D. Cal. Oct. 14, 2009). Counsel’s motion to withdraw will, therefore, be denied
16 without prejudice to renewal.

17 Moreover, on October 24, 2023, plaintiffs’ counsel was ordered to file the form entitled
18 Consent to Assignment or Request for Reassignment within 90 days. (ECF No. 3.) Plaintiffs’
19 counsel has also failed to comply with that order.

20 Accordingly, IT IS HEREBY ORDERED that:

21 1. The February 2, 2024 hearing of defendants’ motion to dismiss (ECF No. 4) and the
22 determination of whether plaintiffs’ counsel shall be sanctioned is continued to **Friday, April 26,**
23 **2024, at 10:00 a.m.**, at the United States District Court, 501 I Street, Sacramento, California, in
24 Courtroom No. 27, before the undersigned;

25 2. On or before **February 23, 2024**, counsel for plaintiffs shall file either a motion to
26 withdraw as counsel that complies with all applicable rules, including Local Rule 182, or a
27 statement of readiness to continue as plaintiffs’ counsel accompanied by a statement of opposition
28 or non-opposition to defendants’ motion to dismiss; and

1 3. Within fourteen days of the date of this order plaintiffs' counsel shall complete and file
2 the Consent to Assignment or Request for Reassignment form available on the court's website at
3 <http://www.caed.uscourts.gov/caednew/index.cfm/forms/civil/>.

4 DATED: January 29, 2024

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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